

REMARKS

The Applicant does not believe that Examination of the response contained herein will result in the introduction of new matter into the present application for invention. Therefore, the Applicant, respectfully, requests that this response be entered and that the claims to the present application, kindly, be reconsidered.

The Final Office Action dated May 9, 2005 has been received and considered by the Applicants. Claims 1-20 are pending in the present application for invention. Claims 1-20 stand rejected by the May 9, 2005 Final Office Action.

RESPONSE TO EXAMINER'S ARGUEMENTS

The Examiner states that Oda teaches all the elements of the rejected claims except for a means for starting the device at a programmable start time or a means for automatically and periodically updating a start time after said current time. The Examiner's position is Callicotte et al. teach a means for starting the device at a programmable start time (column 4, lines 8-18) and a means for automatically and periodically updating a start time after said current time (column 4, lines 8-24, column 5, lines 15-25).

The MPEP at §2141.02 states that in "determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious. *Stratoflex, Inc. v. Aeroquip Corp.*, 713 F.2d 1530, 218 USPQ 871 (Fed. Cir. 1983); *Schenck v. Nortron Corp.*, 713 F.2d 782, 218 USPQ 698 (Fed. Cir. 1983)."

The Applicant respectfully disagrees with the assertions contained within the Final Office Action. Callicotte et al. pertains to a sleep timer. Callicotte et al. do not address or discuss power failure situations in any way. A person skilled in the art would not be motivated to look to the methodology of synchronizing two communication devices as taught by Callicotte et al. for suggestions related to power failure in a communication device. Callicotte et al. do not discuss power failure. While Oda discusses power failure situations, Oda fails to disclose or suggest a start time that is periodically updating after said current time. The Applicant, respectfully, asserts that the rejection contained within the Final Office Action has addressed the differences

between the embodiments of the invention as defined by the rejected claims and the cited references. The rejection has picked the various elements of the rejected claims from multiple references and made the combination contained within the Final Office Action absent any suggestion or motivation within the cited references to make the combination. The Applicant submits that the Examiner is applying hindsight recreation to combine elements for a first reference, Oda, the deals with power failure situations, with a second reference, Callicotte et al., that deals with issues related to preserving battery time. The combination made by the Final Office Action is made without any suggestion to combine these references. The Office Action has not provided any teaching or motivation within either Callicotte et al. or Oda that would lead a person skilled in the art to apply the teachings of Callicotte et al. to the device of Oda. A person skilled in the art would not be motivated to apply the teachings of Callicotte et al. to the device Oda for the simple reason that Callicotte et al. operates without consideration of a power failure occurring.

The MPEP at §2143.01 states that FACT THAT REFERENCES CAN BE COMBINED OR MODIFIED IS NOT SUFFICIENT TO ESTABLISH *PRIMA FACIE* OBVIOUSNESS. "The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990)." The Examiner contends that Callicotte et al. suggests the combination in order to reduce the on time of the telephone to a minimum. The Applicant, respectfully, submits that reducing on time to a minimum is not the premise of the rejected claims. For example, Claim 6 specifically defines subject matter for "when the communication device is stopped by accident". The Applicant respectfully submits that there is no suggestion within Callicotte et al. for any action or device "when the communication device is stopped by accident".

The Final Office Action rejects Claims 1-3, and 5-16 under the provisions of 35 U.S.C. §103(a), as being unpatentable over U.S. Patent No. 5,551,077 issued to Oda (hereinafter referred to as Oda) in view of U.S. Patent No. 5,910,944 issued to Callicotte et al. (hereinafter referred to as Callicotte et al.).

Regarding Claim 1, the Final Office Action contends that Oda teaches the subject matter defined by rejected Claim 1 except for that the means for starting the device includes a means for automatically and periodically updating the start time after said current time, the electric power supply for the updating means being ensured solely by the main power source. The Final Office Action states that Callicotte et al. teach a means for automatically and periodically updating the start time after said current time, the electric power supply for the updating means being ensured solely by the main power source at col. 4, line 8-18. The Applicant, respectfully, points out that there is no disclosure or suggestion within Callicotte et al. periodically updating the start time after said current time, the electric power supply for the updating means being ensured solely by the main power source at col. 4, line 8-24 or anywhere within the four corners of Callicotte et al. Callicotte et al. at col. 4, line 8-24 simply states that the call processor coordinates the events required for entry and exit into sleep mode including restarting the clock and oscillator. Callicotte et al. teach a duration of sleep time that is not updated. There is no indication where within the cited references, Callicotte et al. or Oda, that would give a person skilled in the art any indication that it would be possible to use the duration of sleep time taught by Callicotte et al. as a programmable time period as defined by the rejected claims or that doing so would have a reasonable expectation of success. The Applicant, respectfully, submits that if the sleep time duration of Callicotte et al. was applied to the device of Oda, the resulting device would attempt to start without any regard to the programmable time as recited by the rejected claims. There is no reasonable basis for the assertions made by the Examiner that Callicotte et al. teach a new start is automatically made the moment when a current time established by a permanent clock coincides with the previously updated start time. Therefore, this rejection is, respectfully, traversed.

Regarding Claim 2, the Final Office Action contends that Callicotte et al. at col. 4, line 8-24 teaches a communication device in which the processing unit comprises the automatic updating means for updating the start time. The Applicant, respectfully, points out that Callicotte et al. teach a duration of sleep time that is not updated. The subject matter defined by rejected Claim 2 includes means for starting the device at a programmable start time includes a clock associated to an auxiliary power source, to produce a current time. The Office Action cites Callicotte et al. for a programmable start time. The Applicant, as previously discussed, asserts that Callicotte et al. do not discuss means for starting the device at a programmable start

time, specifically, which include a clock associated to an auxiliary power. If fact there is no programmable start time taught, or suggested, by Callicotte et al. much less one associated to an auxiliary power source. Therefore, this rejection is, respectfully, traversed.

Regarding Claim 3, the Final Office Action contends that Callicotte et al. at col. 4, line 8-24 and col. 5, lines 15-25 teaches a register for storing start times, updated by automatic updating means to a time D , so that $D = t + N$, where N is a time value higher than or equal to a start interval and where t is the current time. The Applicant disagrees. There is no register for storing start times, updated by automatic updating means to a time D , so that $D = t + N$, where N is a time value higher than or equal to a start interval and where t is the current time disclosed or suggested by Callicotte et al.

Claim 5 depends from Claim 1 and further narrows and defines Claim 1. Therefore, since Claim 1 is believed to be allowable, claim 5 is also believed to be allowable.

Regarding Claim 6, the Final Office Action contends that Oda teaches the subject matter defined by rejected Claim 6 except for an automatic programmable start time. The Office Action states that Callicotte et al. teach a new start is automatically made the moment when a current time established by a permanent clock coincides with the previously updated start time at col. 4, line 8-24. The Applicant, respectfully, points out that there is no disclosure or suggestion within Callicotte et al. for a start is automatically made the moment when a current time established by a permanent clock coincides with the previously updated start time at col. 4, line 8-24 or anywhere within the four corners of Callicotte et al. Callicotte et al. at col. 4, line 8-24 simply states that the call processor coordinates the events required for entry and exit into sleep mode including restarting the clock and oscillator. There is no reasonable basis for the assertions made by the Examiner that Callicotte et al. teach a new start is automatically made the moment when a current time established by a permanent clock coincides with the previously updated start time. Therefore, this rejection is, respectfully, traversed.

Regarding Claim 7, the Final Office Action contends Callicotte et al. teach the start time is updated by adding a time increment to the current time at col. 4, line 8-24. The Applicant, respectfully, disagrees. There is no discussion within Callicotte et al. at col. 4, line 8-24 for the start time to be updated by adding a time increment to the current time. Therefore, this rejection is, respectfully, traversed.

Regarding Claim 8, the Final Office Action contends Callicotte et al. teach the start time

is updated with a shorter interval than a value of the time increment at col. 6, lines 1-14. The Applicant, respectfully, disagrees. There is no discussion within Callicotte et al. at col. 6, line 1-14 for the updated with a shorter interval than a value of the time increment. Therefore, this rejection is, respectfully, traversed.

Regarding Claim 9, the Final Office Action contends Callicotte et al. teach the start time is measured from the current time as an instantaneous value in seconds at col. 4, line 16-18. The Applicant, respectfully, disagrees. There is no discussion within Callicotte et al. at col. 4, line 16-18 for a start time measured from the current time as defined by rejected Claims 1 or 9. The Applicant, respectfully, points out Callicotte et al. at col. 4, line 8-24 clearly describes a method and system that is not freely combinable with the disclosure or Oda. Callicotte et al. at col. 4, line 8-24 clearly describes a fully powered, fully functional processing apparatus and is, therefore, completely inconsistent with the stated function and purpose of the Oda reference. Moreover, Callicotte et al. at col. 4, line 16-18 states that the radiotelephone monitors paging channels for 160ms, which is less than a second. Claim 9 defines subject matter for the start time to be measured from the current time as an instantaneous value in seconds. Therefore, this rejection is, respectfully, traversed.

Regarding Claim 10, the Final Office Action contends Callicotte et al. teach the number of seconds in the instantaneous value is measured as a number of pulses of the clock at col. 4, line 10-13; col. 4, line 33-40; and col. 4, line 60-64. The Applicant, respectfully, disagrees. There is no disclosure or suggestion for a start time to be measured from the current time as a value in seconds the number of seconds measured as pulses of the clock within Callicotte et al. Therefore, this rejection is, respectfully, traversed.

Regarding Claim 11, the Final Office Action contends that Oda teach that the processing unit comprises a first part that is supplied with power by the main power source and a second part that can be supplied with power either by the main power or the auxiliary power source if the main power fail at col. 2, line 18-22. The Applicant, respectfully, disagrees. Oda does not divide the processor into a first and a second part. The Examiner further asserts that Callicotte et al. discloses a processing unit that is powered by a battery at col. 4, line 8-10. The Applicant, respectfully, points out that Callicotte et al. do not teach a first part that is supplied with power by the main power source and a second part that can be supplied with power either by the main power or the auxiliary power source if the main power fails. Furthermore, Claim 11 depends

from Claim 1, and includes all the limitations defined by Claim 1. Therefore, this rejection is, respectfully, traversed.

Regarding Claim 12, the Final Office Action contends Callicotte et al. teach that the second part further comprises at least one register for retaining the current time and the start time at col. 4, line 8-24 and col. 5, lines 15-25. The Applicant, respectfully, disagrees. As previously discussed in response to the rejection for Claim 11, Callicotte et al. do not teach a first part that is supplied with power by the main power source and a second part that can be supplied with power either by the main power or the auxiliary power source if the main power fails. Therefore, it is impossible for Callicotte et al. to teach or suggest that the second part has at least one register for retaining the current time and the start time. Simply put, there is no second part within Callicotte et al. that has auxiliary power source if the main power fails. Therefore, this rejection is, respectfully, traversed.

Regarding Claim 13, the Final Office Action contends Callicotte et al. teach the start time is measured from the current time as an instantaneous value in seconds at col. 4, line 16-18. The Applicant, respectfully, disagrees. There is no discussion within Callicotte et al. at col. 4, line 16-18 for a start time measured from the current time. The Applicant, respectfully, points out Callicotte et al. at col. 4, line 8-24 clearly describes a method and system that is not freely combinable with the disclosure or Oda. Callicotte et al. at col. 4, line 8-24 clearly describes a fully powered, fully functional processing apparatus and is, therefore, completely inconsistent with the stated function and purpose of the Oda reference. Moreover, Callicotte et al. at col. 4, line 16-18 states that the radiotelephone monitors paging channels for 160ms, which is less than a second. Claim 13 defines subject matter for the start time to be measured from the current time as an instantaneous value in seconds. Therefore, this rejection is, respectfully, traversed.

Regarding Claim 14, the Final Office Action contends Callicotte et al. teach the number of seconds in the instantaneous value is measured as a number of pulses of the clock at col. 4, line 10-13; col. 4, line 33-40; and col. 4, line 60-64. The Applicant, respectfully, disagrees. There is no disclosure or suggestion for a start time to be measured from the current time as a value in seconds the number of seconds measured as pulses of the clock within Callicotte et al. Therefore, this rejection is, respectfully, traversed.

Regarding Claim 15, the Final Office Action contends that Oda teach that the communication device is in operation a main power source supplies power to both a first part and

a second part of a processing section for the communication device and when the communication device is stopped by accident, the first part is not supplied power and the second part is supplied power from an auxiliary power source at col. 2, line 18-22. The Applicant, respectfully, disagrees. Oda does not divide the processor into a first and a second part. The Examiner further asserts that Callicotte et al. discloses a processing unit that is powered by a battery at col. 4, line 8-10. The Applicant, respectfully, points out that Callicotte et al. do not teach a first part that is supplied with power by the main power source and a second part that can be supplied with power either by the main power or the auxiliary power source if the main power fails. Furthermore, Callicotte et al. do not disclose or suggest any action that takes place when the communication device is stopped by accident. Therefore, this rejection is, respectfully, traversed.

Regarding Claim 16, the Final Office Action contends Callicotte et al. teach that the second part further comprises at least one register for retaining the current time and the start time at col. 4, line 8-24 and col. 5, lines 15-25. The Applicant, respectfully, disagrees. As previously discussed in response to the rejection for Claim 15, Callicotte et al. do not teach a first part that is supplied with power by the main power source and a second part that can be supplied with power either by the main power or the auxiliary power source if the main power fails. Therefore, it is impossible for Callicotte et al. to teach or suggest that the second part has at least one register for retaining the current time and the start time. Simply put, there is no second part within Callicotte et al. that has auxiliary power source if the main power fails. Therefore, this rejection is, respectfully, traversed.

Regarding Claim 17, the Final Office Action contends that Oda and Callicotte et al. teach a first clocking device operatively connected to the first part and a second clocking device operatively connected to the second part, wherein the second clocking device is powered by the auxiliary power source. The Applicant, respectfully, points out that each of Oda and Callicotte et al. teach a single clocking device. In making this rejection the Examiner has simply picked elements recited by Claim 17 from among various prior art references using the subject matter defined by Claim 17 as a blueprint. This rejection is no more than hindsight recreation by the Examiner. There is no suggestion within either Oda or Callicotte et al. to make the modification asserted by the Final Office Action. Accordingly, a prima facie case of obviousness is not made. Therefore, this rejection is, respectfully, traversed.

Claim 18 depends from Claim 17 and further narrows and defines Claim 17. Therefore, Claim 18 is believed to be allowable.

The Final Office Action rejects Claims 4 and 19 under the provisions of 35 U.S.C. §103(a), as being unpatentable over Oda in view of Callicotte et al. and further in view of U.S. Patent No. 5,036,532 issued to Metroka et al. (hereinafter referred to as Metroka et al.).

Claim 4 depends from Claim 1 and further narrows and defines Claim 1. Therefore, Claim 4 is believed to be allowable.

Claim 19 depends from Claim 18 and further narrows and defines Claim 18. Therefore, Claim 19 is believed to be allowable.

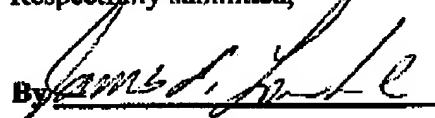
The Final Office Action rejects Claim 20 under the provisions of 35 U.S.C. §103(a), as being unpatentable over Oda in view of Callicotte et al. and Metroka et al. and further in view of U.S. Patent No. 5,995,814 issued to Yeh (hereinafter referred to as Yeh).

Claim 20 depends from Claim 19 and further narrows and defines Claim 19. Therefore, Claim 20 is believed to be allowable.

Applicant is not aware of any additional patents, publications, or other information not previously submitted to the Patent and Trademark Office which would be required under 37 C.F.R. 1.99.

In view of the foregoing amendment and remarks, the Applicant believes that the present application is in condition for allowance, with such allowance being, respectfully, requested.

Respectfully submitted,



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